

June 11, 2019

Via Electronic Mail

The Honorable Members of the California Public Employment Relations Board c/o Kristina Gonzalez, Assistant to the Board 1031 18th Street Sacramento, California 95811

RE: Comments On Proposed Regulation Packages (June 13, 2019, Board Meeting)

Dear Board Members:

The California Public Employers Labor Relations Association (CALPELRA) appreciates the opportunity to comment on PERB's new proposed regulation packages, and commends the Board and staff on the skill and care that went into drafting the proposed regulatory changes. The well drafted proposed regulations provided needed clarification on a number of important matters.

CALPELRA is a professional, California nonprofit association established in 1975, comprised of public sector professional management representatives responsible for carrying out the labor relations/human resource programs for their jurisdictions. CALPELRA's members work in city, county, or state government, school districts, community colleges, state university systems, trial courts, the judicial council, and special districts. Our members represent management in employee relations, bargaining, and other activities involving public employee unions and associations. We also serve lawyers and private consultants exclusively serving management in all facets of employer-employee relations. CALPELRA trains the best and brightest of California's labor and employee relations professionals in its Labor Relations Academy, and CALPELRA's Labor Relations Academy Master (CLRM) certification has become a desired employment qualification in many California public agencies. Many of our members and others who attend CALPELRA's trainings and Annual Conferences are members of bargaining units in their public agencies.

Because our members come from a variety of different public agencies, they also have a broad array of perspectives. One of CALPELRA's primary concerns is ensuring that regulations are clear and unambiguous so that all involved in the process understand the applicable rules and procedures. The proposed regulations accomplish this, and CALPELRA is broadly supportive of the proposed revisions.

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We offer a suggestion on one of the proposed changes. Our individual members have divergent views on the proposed addition of subdivision (h) to Section 32150. Some are concerned that the regulation allowing PERB to draw an adverse inference from a responding party's failure to comply with a valid subpoena inappropriately shifts from the superior court to PERB the authority to determine the validity of a subpoena, and leaves an objecting party without adequate recourse when an invalid or objectional subpoena is issued. Others point out that the General Counsel already exercises discretion in deciding whether to seek a court order to enforce a subpoena, and appreciate that the proposed changes will save litigation time and costs. To address concerns regarding this proposed regulation, PERB may want to consider identifying limited circumstances in which the adverse inference option may be applied. For example, PERB could limit the use of this alternative to situations in which the objecting party has requested revocation or limitation of the subpoena under proposed new section 32150(e)(2), and the Board, after considering the request, has determined that the objections clearly are without merit.

CALPELRA appreciates the efforts of the Board and staff to clarify the procedures through regulatory changes, and we thank you for the opportunity to provide input at this stage of the process.

Sincerely,

Janet Cory Sommer

CALPELRA Chief Executive Officer

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cc: Ian Appleyard, CALPELRA Board President
Jennifer Curtis, CALPELRA Board Vice President
Thom Harpole, CALPELRA Board Secretary
Debra Gill, CALPELRA Board Treasurer
Debora Boutté, CALPELRA Immediate Past President
Aram Chaparyan, CALPELRA Board Member
Marguerite Malloy, CALPELRA Board Member
Brad Rankin, CALPELRA Board Member
Donna Vaillancourt, CALPELRA Board Member